REMARKS

This amendment is submitted in response to the final Official Action mailed July 13, 2007. In view of the above claim amendments, the following remarks, and the enclosed Request for Continued Examination, reconsideration by the Examiner and allowance of the application is respectfully requested.

THE CLAIM AMENDMENTS

Claims 30– 42 have been canceled. Independent Claims 1 and 22 have been amended to more particularly point out and distinctly claim the subject matter Applicant regards as the invention. At the outset, the claims have been amended to recite, “A computer-based method for cooperatively managing a combined asset investment.” Computer implementation is disclosed throughout the specification. The cooperative management of a combined asset investment is disclosed in the specification from page 18, line 8 to page 19, line 4. This amendment does not introduce new matter.

In addition, the claims have been amended to define more precisely the step of controlling a collateralizable first investment as a step of controlling a first investment portfolio containing collateralizable securities of one or more asset classes selected from mutual funds, bonds, corporate stock and corporate debt obligations. A first investment portfolio containing collateralizable securities of one or more asset classes selected from mutual funds, bonds, corporate stock and corporate debt obligations is disclosed in the specification at page 13, lines 14 -16. Accordingly, these amendments do not introduce new matter.

Claims 1 and 22 have also been amended to clarify that the financing obtained by collateralizing the securities of the first investment portfolio is used to purchase multiple income-producing real estate investments. This is disclosed in the specification at page 15, line 21 and also does not introduce new matter.

Claims 1 and 22 have been further amended to clarify that at least a portion of any returns on said second investment are applied to the benefit of the plurality of independent investors by cooperatively managing the combined asset investment by cross-utilizing securities growth and real estate income to the benefit of the plurality of independent investors.

This is disclosed in Claim 9 (now canceled) and in the specification from page 18, line 8, to page 19, line 4, and does not introduce new matter.

Claims 3, 4, 9, 13 – 17, 19 – 22 and 24 have been amended to conform with the changes to the independent claims, which also does not introduce new matter. Finally, new claims 43 – 47 have been added. Claim 43 adds to the method of Claim 1 the step of issuing a number of ownership shares to each of the plurality of individual investors to reflect an ownership interest in said combined investment. This is disclosed in the original Claim 29. Claims 44 and 45 define the corporate debt obligations as including bonds or debentures. This is disclosed at page 13, line 15. Claims 46 and 47 define at least a portion of the collateraliz-able securities of the first investment portfolio as being mortgages or bundled in a mutual fund. This is disclosed in the specification at page 8, lines 20 – 22. None of the new claims therefore introduce new matter.

Instead, for reasons which are submitted below, the claims are believed to be in condition for allowance. The amendments are believed to resolve the concerns raised by the Examiner. Accordingly, reconsideration is respectfully requested.

THE PRIOR ART REJECTION

In the Official Action, Claims 1 – 42 were rejected under 35 U.S.C. §103(a) as being unpatentable for obviousness over Frankel, U.S. Patent No. 6,070,151 in view of an article entitled "Real Estate Limited Partnerships Safe Bet." The Frankel patent was cited as teach-ing a combined investment implemented by aggregating a plurality of capital contributions from a plurality of independent investors; using the capital contributions to control as a first investment a collateralizable portfolio of securities with a growth objective; and obtaining financing collateralized by the portfolio of securities.

The Examiner acknowledged that Frankel did not disclose acquiring a second investment using the financing that is selected for achieving an income-producing objective; and applying a portion of the returns on the second investment to the benefit of the investors; wherein each investor is an investor in the first and second investment combination but cited

the Real Estate Limited Partnership article as dis-closing this. This rejection is respectfully traversed in view of the above claim amendments for the reasons set forth hereinafter.

APPLICANT'S INVENTION

The present invention provides a new business method and investment strategy that integrates two traditionally reliable and mainstream investments, equities and income-produc-ing real estate. Two distinctly different asset classes operate within one investment structure, providing profits derived from real estate holdings and an enhancement to the overall return on equities. The two asset classes are cooperatively managed by cross-utilizing securities growth and real estate income to enhance both the safety and the return on the investment.

The inventor has provided a narrative of explanation of how the inventive method is implemented, which is submitted with this response as Exhibit A. The philosophy behind the new approach of the present invention emphasizes traditional and conservative investment disciplines with long term objectives that focus on capital preservation, value enhancement, risk management and greater diversity. The combined asset investment method transforms the liabilities and risks that are usually associated with leveraged real estate holdings in a manner heretofore unknown by providing a counter-balance and safety net that are achieved through the unique properties and characteristics of equities.

THE AMENDED CLAMS PATENTABLY DEFINE OVER THE CITED COMBINATION OF PRIOR ART FOR THE FOLLOWING REASONS

- **Frankel does not disclose a Combined Investment or even the financing of an initial investment that could subsequently be used to invest in real estate.**

The Franklin patent covers a type of Collateralized Mortgage Obligation (CMO) based investment vehicle. The securities disclosed by Franklin are not financed for subsequent investment.

Sub-prime mortgage-based CMO's are now notorious for destroying the careers of prominent Wall Street executives and forcing Citigroup to borrow $7.5 billion from Abu Dhabi just to make its next three quarterly dividend payments. This all could have been

avoided had the CMO's been packaged in a first investment portfolio that was then financed and invested in commercial real estate according to the method of the present invention. In fact, the present specification discloses at page 3, line 16 that the securities of the first portfolio can include mortgages.

- **The secondary reference on Real Estate Limited Partnerships does not teach or suggest borrowing against a pool of CMO's or other securities to fund a limited partnership for investment in multiple income-producing real estate investments**.

Instead, the cited publication states that each partnership "usually invests in only one property." Each individual investor separately borrows money to raise the down payment for purchasing the property:

> An example of a current offering would be an investor in the top marginal tax bracket (say 50 per cent) borrowing $20,000 US to finance the required equity down payment loan on an US $80,000 unit. Cash flow from the property should cover all equity loan costs, mortgage interest on the $60,000, and the property management expenses, yet still put $1,000 to $2,000 per year in the investor's pocket after tax.

There is no disclosure regarding how the investor would borrow that money. Instead of requiring each investor to individually borrow money to purchase the property, the present invention pools a securities portfolio that investors either contribute securities to or invest in like they would a mutual fund or other asset pool. These securities are then financed to purchase multiple income-producing real estate investments. The investment method of the present invention does not hinge on individual investors borrowing money to raise down-payments on real estate.

- **Unlike the Real Estate Limited Partnership scenario, the investors in the method of the present invention also have a stake in a portfolio of securities, i.e., the securities financed to leverage the purchase of the real estate.**

The securities appreciate independent of the real estate to provide financial growth for the investors independent of the performance of the real estate investments.

Furthermore, the independent claims have been amended to clarify that the securities portfolio and the real estate portfolio are cooperatively managed by cross-utilizing securities growth and real estate income to the benefit of the investors. This feature of the present invention is neither taught nor suggested by Frankel or the article on Real Estate Limited Partnerships. Frankel contains no teaching or suggestion that the disclosed CMO's be financed, let alone that the proceed of the financing be invested in multiple income-producing real estate investments.

The article on Real Estate Limited Partnerships does not teach or suggest acquiring the partnership assets by borrowing against a portfolio of collateralizable securities such as a portfolio of the CMO's disclosed by Frankel. The article is totally silent regarding how each investor would obtain $20,000 to buy into the Limited Partnership. The situation would be entirely different if the Real Estate Limited Partnership article suggested as one option that the investors raise their $20,000 by borrowing against collateralizable securities that they might be holding.

- **Most significantly, neither publication teaches or suggests the cross-utilization of securities growth and real estate income to the benefit of investors**.

This is simply not possible because Frankel does not teach or suggest borrowing against the disclosed securities to purchase income-producing real estate and the Real Estate Limited Partnership article does not teach or suggest that the real estate investors borrow against a portfolio of collateralizable securities to purchase income-producing real estate. Even if the two publications could be read together as suggesting the simultaneous investment in both types of assets, there is no teaching or suggestion that securities growth and real estate income be cross-utilized to enhance investor returns and safety, let alone how this may be accomplished.

- **It is not necessary for Applicants to individually attack the teachings of the cited prior art.**

Instead, the combined teaching of the two publications fails by at best suggesting that an investor holding some of Frankel's CMO's might borrow against them to invest in a Real

Estate Limited Partnership. But even that requires the impermissible application of hindsight reconstruction.

There is simply no teaching or suggestion when the cited prior art is viewed alone or in combination that a group of investors acquire a portfolio of CMO's and/or other investments and borrow against the portfolio to finance multiple investments in income-producing real estate. Nor does either publication comprehend the advantages of the presently claimed method. This can only be learned by reading the present specification.

- **The independent claims of the present application (Claims 1 and 22) have been amended to emphasize these distinctions.**

The claims have been amended to define more precisely the step of controlling a collateralizable first investment portfolio containing collateralizable securities of one or more asset classes selected from mutual funds, bonds, corporate stock and corporate debt obligations. This is to clarify that investments are being pooled by multiple investors for subsequent financing rather than having individual investors separately raise money by borrowing against assets that they own. This also excludes Real Estate Partnership Investments that are funded solely by individual investors obtaining cash by unspecified means.

The claims have also been amended to clarify that the financing obtained by collateralizing the securities of the first investment portfolio is used to purchase multiple income-producing real estate investments. This adds to the claims a feature on which Frankel is silent and the Limited Partnership article teaches against thereby further defining over the cited prior art combination.

Finally the claims have been amended to require that the dual asset classes be coopera-tively managed by cross-utilizing securities growth and real estate income to the benefit of the investors. There is simply no recognition by either publication of the advantages of doing this with respect to both investment return and safety.

- **Because Frankel and the article on Real Estate Limited Partnerships, when viewed alone or in combination, neither teach nor suggest the features of the presently amended claims or the advantages obtained therefrom, the claims patentably define over the cited prior art combination under 35 U.S.C. §103(a).**

By amending Claims 1 and 22 to require the first investment portfolio to contain collateralizable securities of one or more asset classes selected from mutual funds, bonds, corporate stock and corporate debt obligations and the second portfolio to contain multiple income-producing real estate investments purchased by financing the collateralizable securities, and the two asset classes be cooperatively managed by cross-utilizing securities growth and real estate income to the benefit of investors, this rejection of Claims 1-42 under 35 U.S.C. §103(a) as being unpatentable for obviousness over Frankel in view of the article on Real Estate Limited Partnerships has thus been overcome. Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

In view of the above claim amendments and the foregoing remarks, this application is in condition for Allowance. Reconsideration is respectfully requested. Applicants believe they have identified and explained features existing in the inventive method as described in the original specification that patentably define over the state of the art. Should the Examiner believe that the claims fail to precisely recite these features in a manner that adequately defines over the prior art, the Examiner is asked to telephone the undersigned with claim language recommendations that would better accomplish this objective.

Finally, if there are any additional charges in connection with this response, the Examiner is authorized to charge Applicant's Deposit Account No. 50-1943 therefor.

Respectfully Submitted,

Dated: March 28, 2008

/Peter J. Butch III/

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Exhibit A

The Combined Asset Investment Strategy
A Retirement Solution

A Narrative of the Methodology

The method joins two asset classes, equities and income producing real estate, creating a strategic and purposeful operating synergy. The first asset class, (equities) is used as collateral to acquire the second asset class, (Income producing Real Estate). In this manner you have effectively acquired the second asset class without a reallocation away from equities. The legal entity may be any structure where investor capital is pooled and managed, such as a Fund or Annuity.

As is presently the case with most existing funds, a substantial allocation of cash assets is virtually always invested in the equities market. For example, assume that a 1 billion dollar pool of investor capital is either already available (e.g. an existing fund) or becomes available (e.g. a newly created fund). Investor capital (assets) is used as collateral to establish a line of credit. A line of credit of up to 80 % of the value of an equities portfolio may be obtained. In this example you now have 80 % of 1 billion (800 million) available as a line of credit to be used to acquire income-producing assets such as real estate. A conservative and more desirable approach can be less aggressive by choosing to use only 25% of the available line, or 200 million. Then, 200 million worth of income producing real estate may be purchased all cash to the seller and without a lien on the property. This would provide the maximum "Enhancement" (Additional cash flow to the equities portfolio). However, because you have now acquired 200 million of real estate on an all cash basis, without a mortgage, you could purchase another 200 million dollars of real estate by obtaining 50% loan-to-value financing, 200 million from the credit line and 200 million through a first mortgage lien. In this example, your fund now has 1 billion dollars of equities, plus 400 million dollars of income producing real estate providing all of the benefits of owning this asset class. "Adding Value" It is important to consider that although margin lending is available, "THIS STRATEGY AVOIDS THE USE OF MARGIN LENDING".

Utilizing this borrowing configuration provides reciprocal benefits to both investors and lenders. A truly meaningful and mutually beneficial relationship! For the credit line lender, it provides an immediate and liquid guarantee against default and therefore should command the most favorable interest only lending rates available. For the first mortgage lender it provides for 50% loan to value underwriting and once again provides the rationale for the most favorable lending rates available. The real estate should be purchased at a capitalization rate formula that allows for servicing debt on both the credit line and any first mortgage debt placed on the real estate. The effect of an increasing value of an equities portfolio will create an inertia effect as to acquiring more real estate and or other income producing assets, making the "Added Value" even more meaningful regardless of how conservative or aggressive you wish to be.

This is a long-term strategy that is diverse, conservative, unique and practicable. It creates an extremely flexible investment operating platform that is actively managed to cross utilize the strengths and unique investment characteristics of each asset class while providing realistic options to confront the challenges of our cyclical economy

The ideal equities portfolio should be of high quality stocks, bonds and fixed income instruments managed by institutional quality fund managers. The real estate portfolio should be diverse as to property type (apartments, office, warehouse, retail, triple net leased property's, leased to bond rated tenants, etc) and across various geographic markets. The selection and on-going management of the real estate should also be by qualified institutional quality managers.

At first glance a conservative investor may have a knee jerk negative response due to this programs use of “Debt” and "Collateral". However a thorough understanding of the program and its disciplines should calm those fears and show that quite the opposite is true, that there is an historic low correlation between the two asset classes, and the debt levels can be set as desired subject to investment goals, risk tolerances and the overall value of the equities portfolio.

One of the most interesting features of this strategy is that juxtapose to the usual leveraged real estate transaction where the risk increases and cash flow decreases to the extent of the leverage employed, in most if not all cases The Combined Asset Investment Strategy reduces risk by providing a liquidity component to the Real Estate and an increase in cash flow to the equities portfolio when it is understood from the outset that active and cooperative management is one of the strengths of combining the two into one operational philosophy. Through this active and cooperatively managed structure you have literally neutralized the risk of a mortgage holder induced foreclosure by forced sale with the equities portfolio providing a protective function to the Real Estate. A close review of the characteristics of each asset class will demonstrate an inherent “harmony” or “compatibility” with each other. For example, stocks are a relatively volatile but liquid asset class where real estate is much more stable. Real Estate also tends to produce more cash flow than equities however it is not a liquid asset, etc. These differences should be considered and purposefully maintained by avoiding leveraging against classes of equities that are subject to the broader market’s volatilities and behave more like stocks, such as Collateralized Mortgage Obligations, or shares in Real Estate Investments Trusts. It is very important, fir the investor to control the Real Estate at the property level. This provides the needed flexibility to operate interactively with the equities portfolio and to deal with lenders on a property by property basis, and helps to avoid or mitigate market driven volatility.

The risks associated with this strategy are relatively quite predictable when the actual performance of the major indices like the S & P 500 and the Wilshire REIT index is viewed retrospectively. Both of these highly regarded mainstream asset classes, equities and real estate, coupled with proven asset managers for each asset class should provide a compelling and very reasonable expectation of achieving results that need only to fall within a range of relative proximity of the aforementioned retrospective industry averages for success.

The accompanying financial model was based on CALPERS 2008 allocation of assets and demonstrates what results are possible when real estate is acquired and operated using this method. Also note that this model is based on yearly results.

The Combined Asset Investment Method

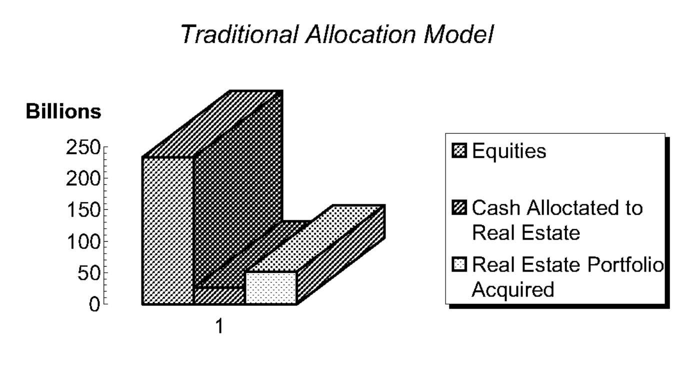
A Narrative of the Methodology (Continued)

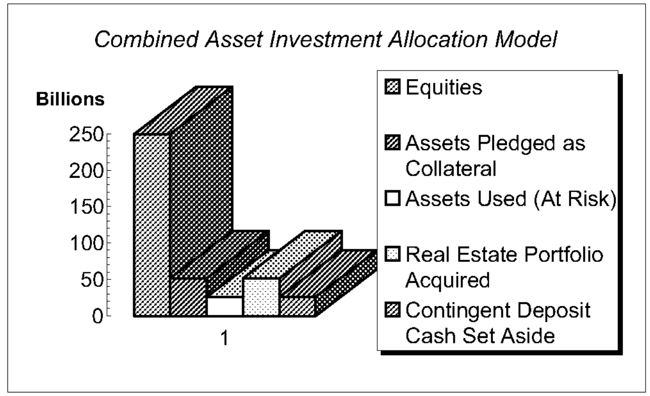
As is the case with the US and World Economies, the nature of these two asset classes are cyclical and business cycles can provide opportunities as well as liabilities. Experienced hands on management should prevail most of the time.

Whether this strategy is used for separate account management, a closed/open end fund, an overlay strategy for a pension funds existing portfolio's, a variable annuity option, a social security privatization solution or as a corporate debenture, this strategy holds much promise and needs to be tried.

Total Assets	259,500,000,000	
Current Asset Allocation		
Priv Eq. Glob Eq. & Fxd Inc.	90%	233,550,000,000
Cash Allocated to Real Estate	10.00%	25,950,000,000
RE Acquired @ 50% LTV		51,900,000,000

Total Assets	259,500,000,000	
New Asset Allocation		
Priv Eq. Glob Eq. & Fxd Inc.	100%	259,500,000,000
Assets Pledged as Collateral	20.00%	51,900,000,000
Assets Deployed For RE	50%	25,950,000,000
RE Acquired @ 50% LTV		51,900,000,000
Contingent Deposit Cash Set Aside		25,950,000,000





Improved Returns Using The Combined Asset Method

Component A — ***Equities Portfolio***

Return from Equites 4.25%

Initial investment is shown as the total collateral pledged, and not as the actual at risk amount	Initial Investment	51,900,000,000	
	Return		2,205,750,000
	Credit Line	25,950,000,000	
	Net Return		2,205,750,000

Component B — ***Real Estate Financed With Pledged Collateral***

Return from Real Estate 7.00%

6.00%	Credit Line	25,950,000,000	
	Return		1,816,500,000
	Debt Service		1,557,000,000
	Net Return		259,500,000

	A	B	C
Total Return	2,205,750,000	1,816,500,000	1,816,500,000
Cost to Borrow	0	-1,557,000,000	-1,686,750,000
Net Return	2,205,750,000	259,500,000	129,750,000
Adjusted Return	2,595,000,000		
Dollar Increase	389,250,000		
Pct. Increase	17.65%		

Component C — ***Real Estate Financed by 1st Mortgage***

Return from Real Estate 7.00%

25,950,000,000	1st Mortgage	25,950,000,000	
	Return		1,816,500,000
6.50%	Debt Service	25,950,000,000	1,686,750,000
	Net Return		129,750,000

Cap Rate vs. Blended Cost of Borrowing Spread

Net Operating Income	7.00%	51,900,000,000	3,633,000,000
Int. Only Rate	6.00%	25,950,000,000	1,557,000,000
1st Mtge. Rate	6.50%	25,950,000,000	1,686,750,000
Blended Rate	6.25%	51,900,000,000	3,243,750,000
Spread	0.75%	51,900,000,000	389,250,000